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13 UNITED STATES DISTRICT COURT
14 NORTHERN DISTRICT OF CALIFORNIA
15

16 In re: NVIDIA CORPORATION
CONSOLIDATED DERIVATIVE
17 LITIGATION

18 This Document Relates to:

19 ALL ACTIONS
20
21
22

Case No. 4:19-cv-00341-HSG

**JOINT STIPULATION AND
~~PROPOSED~~ ORDER TO FURTHER
STAY PROCEEDINGS**

[CIVIL L.R. 7-12]

Related Case No.: 4:18-cv-07669-HSG

Judge: Hon. Haywood S. Gilliam, Jr.
Courtroom: 2

23 Pursuant to Civil Local Rule 7-12, plaintiffs Sanghyep Han, Yuju Yang, and The Booth
24 Family Trust (“Plaintiffs”) and defendants NVIDIA Corporation (“NVIDIA”), Jensen Huang,
25 Colette M. Kress, Robert K. Burgess, Tench Coxé, Persis S. Drell, James C. Gaither, Dawn Hudson,
26 Harvey C. Jones, Michael G. McCaffrey, Mark L. Perry, A. Brooke Seawell, and Mark A. Stevens,
27 (the “Individual Defendants,” together with NVIDIA, the “Defendants,” and together with
28

1 Plaintiffs, the “Parties”), by and through their undersigned counsel, hereby stipulate and agree as
2 follows:

3 **RECITALS**

4 WHEREAS, on January 18, 2019, Plaintiff Sanghyep Han filed a shareholder derivative
5 action on behalf of nominal defendant NVIDIA against the Individual Defendants, alleging
6 violations of Section 10(b), 14(a) and 20(a) of the Securities Exchange Act of 1934 (the “Exchange
7 Act”), SEC Rules 10b-5 and 14a-9, and breaches of fiduciary duty, unjust enrichment, and waste
8 of corporate assets, captioned *Han v. Huang, et al.*, Case No. 3:19-cv-00341 (the “*Han Action*”);

9 WHEREAS, on February 12, 2019, Plaintiff Yuju Yang filed a shareholder derivative action
10 on behalf of NVIDIA against the Individual Defendants, asserting substantially similar factual
11 allegations and claims as the *Han Action*, captioned *Yang v. Huang, et al.*, Case No. 3:19-cv-00766
12 (the “*Yang Action*”);

13 WHEREAS, on February 19, 2019, Plaintiff The Booth Family Trust filed a shareholder
14 derivative action on behalf of NVIDIA against the Individual Defendants asserting substantially
15 similar factual allegations and many of the same claims as the *Han* and *Yang* Actions, captioned
16 *The Booth Family Trust v. Huang, et al.*, Case No. 3:19-cv-00876 (the “*Booth Action*”);

17 WHEREAS, on March 4, 2019, the Hon. Haywood S. Gilliam, Jr. granted a stipulation
18 consolidating two federal securities class actions, *Iron Workers Local 580 Joint Funds v. NVIDIA*
19 *Corporation, et al.*, Case No. 4:18-cv-07669-HSG and *Oto v. NVIDIA Corporation, et al.*, Case
20 No. 4:18-cv-07783-HSG (the “Consolidated Class Action”) that are currently pending against
21 NVIDIA and two of its officers. The Consolidated Class Action is captioned *In re NVIDIA*
22 *Corporation Securities Litigation*, alleges violations of Sections 10(b) and 20(a) of the Exchange
23 Act and SEC Rule 10b-5, and is currently pending before this Court;

24 WHEREAS, on March 12, 2019, the Hon. Haywood S. Gilliam, Jr. granted Defendants’
25 Administrative Motion to Relate and Consolidate Cases and to Appoint Co-Lead Counsel, thereby
26 relating the *Han*, *Yang*, and *Booth* Actions to the Consolidated Class Action, consolidating the *Han*,
27 *Yang*, and *Booth* Actions under Case No. 4:19-cv-00341-HSG, reassigning them to the Hon.
28 Haywood S. Gilliam, Jr., and entitling the consolidated derivative action *In re NVIDIA Corporation*

1 *Consolidated Derivative Litigation* (the “Consolidated Derivative Action”) (ECF No. 19);

2 WHEREAS, on March 27, 2019, the Court approved the Parties’ joint stipulation to stay
3 the Consolidated Derivative Action pending resolution of any motion to dismiss filed in the
4 Consolidated Class Action;

5 WHEREAS, on March 16, 2020, the Hon. Haywood S. Gilliam, Jr. granted-in-part and
6 denied-in part, with leave to amend, a motion to dismiss filed by NVIDIA in the Consolidated Class
7 Action;

8 WHEREAS, it is expected that an amended complaint will be filed in the Consolidated
9 Class Action;

10 WHEREAS, the Parties have met and conferred concerning the most efficient manner in
11 which to litigate the Consolidated Derivative Action during the pendency of the Consolidated Class
12 Action;

13 WHEREAS, the Parties agree that the resolution of the Consolidated Class Action will
14 inform the manner in which the Consolidated Derivative Action proceeds;

15 WHEREAS, the Parties agree that in the interests of judicial economy and preservation of
16 the Court’s and Parties’ resources, all proceedings in the Consolidated Derivative Action should be
17 stayed in their entirety until after the entry of any order(s) on a motion to dismiss an amended
18 complaint in the Consolidated Class Action;

19 WHEREAS, the Parties agree that Defendants need not answer, move, or otherwise respond
20 to the pending complaints in the Consolidated Derivative Action, or any subsequent complaint filed
21 in the Consolidated Derivative Action, until after the entry of any order(s) on a motion to dismiss
22 the Consolidated Class Action; and

23 WHEREAS, the Parties agree that within 30 days of entry of any order(s) on a motion to
24 dismiss in the Consolidated Class Action, the Parties will meet and confer in good faith and propose
25 either a further stay or a schedule in the Consolidated Derivative Action for Defendants’ response(s)
26 to the operative complaint(s), which will be subject to approval by the Court.

27 **STIPULATION**

28 NOW, THEREFORE, IT IS HEREBY STIPULATED AND AGREED by the Parties

1 hereto, through their undersigned counsel, as follows:

2 1. The Consolidated Derivative Action remains stayed in its entirety until the entry of
3 any order on a motion to dismiss an amended complaint filed in the Consolidated Class Action or
4 until plaintiffs in the Consolidated Class Action indicate their intention not to file an amended
5 complaint.

6 2. Within 30 days of entry of any order on a motion to dismiss any amended complaint
7 filed in the Consolidated Class Action, or within 30 days of the plaintiffs in the Consolidated Class
8 Action indicating their intention not to file an amended complaint, the Parties will meet and confer
9 in good faith and propose either a further stay or a schedule in the Consolidated Derivative Action,
10 including a deadline for Defendants to answer, move, or otherwise respond to the operative
11 complaint(s) in the Consolidated Derivative Action.

12 3. Defendants need not answer, move, or otherwise respond to the pending complaints
13 in the Consolidated Derivative Action, or any subsequent complaint filed in the Consolidated
14 Derivative Action, until a response date is set and/or approved by the Court following the Court
15 lifting the stay.

16 4. Defendants shall promptly notify Plaintiffs of any related derivative actions.

17 5. Defendants shall promptly notify Plaintiffs if a related derivative action is not stayed
18 for a similar or longer duration than the Consolidated Derivative Action.

19 6. If Defendants produce documents or written discovery to plaintiffs in any related
20 derivative action during the pendency of the stay, Defendants agree to provide a copy to Plaintiffs
21 in the Consolidated Derivative Action.

22 7. Plaintiffs have the option to terminate the stay if a related derivative action is not
23 stayed for a similar or longer duration by giving 30 days' notice via email to counsel for Defendants.

24 8. If the Parties in the Consolidated Class Action, or in any related derivative actions,
25 choose to pursue mediation or engage in formal settlement talks, Defendants agree to include
26 Plaintiffs in the Consolidated Derivative Action in the mediation or formal settlement talks. In the
27 event plaintiffs in the Consolidated Class Action or any related derivative actions object to
28 including Plaintiffs in the Consolidate Derivative Action in the mediation or formal settlement

1 talks, Defendants agree to mediate with Plaintiffs in the Consolidated Derivative Action at or about
2 the same time.

3 9. The Parties do not seek this stay of proceedings for the purpose of delay, and the
4 unopposed stay will not have an effect on any pre-trial dates as the Court has yet to schedule the
5 dates.

6 10. The Parties are not waiving any rights, claims, or defenses of any kind except as
7 expressly stated herein, including the right to pursue formal discovery once this case is no longer
8 stayed and/or to file any motion any Party deems appropriate, and the Parties reserve the right to
9 seek further extensions of time as circumstances may warrant, subject to the Court's approval.

10
11 **IT IS SO STIPULATED, THROUGH COUNSEL OF RECORD.**

12
13 Dated: March 26, 2020

COOLEY LLP

14
15 By: /s/ Claire A. McCormack

16 John C. Dwyer
17 Patrick E. Gibbs
18 Claire A. McCormack

19 *Attorneys for Defendants*
20 NVIDIA CORPORATION, JENSEN
21 HUANG, COLETTE M. KRESS,
22 ROBERT K. BURGESS, TENCH COXE,
23 PERSIS S. DRELL, JAMES C. GAITHER,
24 DAWN HUDSON, HARVEY C. JONES,
25 MICHAEL G. MCCAFFERY, MARK L.
26 PERRY, A. BROOKE SEAWELL, and MARK
27 A. STEVENS

28 Dated: March 26, 2020

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By: /s/ Laurence M. Rosen
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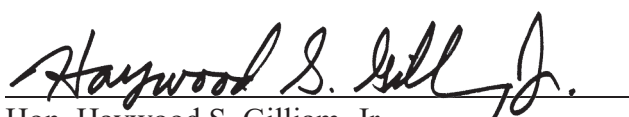
Co-Lead Counsel for Plaintiffs

* * *

ORDER

PURSUANT TO STIPULATION, IT IS SO ORDERED.

DATED: 3/27/2020


Hon. Haywood S. Gilliam, Jr.
United States District Court Judge